

SUPPORT FOR THE AMENDMENTS

Claims 2 and 3 have been canceled.

Claims 1 and 4-15 have been amended.

Claims 16-23 have been added.

The amendment to Claims 1 and 4-15 and the introduction of Claims 16-23 are supported by, for example, original Claims 1-15, paragraph [0013], paragraphs [0017]-[0021], and the Examples. Additional support for new Claim 21 is provided by Figure 2 and the Substitute Sequence Listing filed on June 11, 2007.

No new matter has been added by the present amendment.

REMARKS

Claims 1 and 4-23 are pending in the present application.

In the Notice of Non-Compliant Amendment mailed March 19, 2010, the Office indicates that the sequence appearing in new Claim 21 “does not contain a SEQ ID number and does not appear to be present in the Sequence Listing.” Although it is true that the sequence appearing in new Claim 21 of the response filed on June 23, 2009 did not contain a SEQ ID NO, it is incorrect that this sequence does not appear in the Sequence Listing. With respect to the omission of the SEQ ID NO: in Claim 21, Applicants submit a replacement Amendments to the Claims section where the sequence of new Claim 21 has the corresponding SEQ ID NO: 19. Thus, this criticism is now moot.

However, with respect to the allegation that the sequence appearing in new Claim 21 of the response filed on June 23, 2009 does not appear in the Sequence Listing, Applicants refer the Office to the substitute Sequence Listing filed on June 11, 2007. In the substitute Sequence Listing SEQ ID NOs: 19 and 20 (appearing in Figure 2) were added to the original Sequence Listing. Accordingly, Applicants submit that a new substitute Sequence Listing and corresponding computer-readable form are not necessary. Withdrawal of this requirement is requested.

For sake of completeness, Applicants reassert the following arguments presented in the response filed on June 23, 2009, in response to the Office Action mailed on March 23, 2009:

The rejection of Claims 1-5 and 15 under 35 U.S.C. §112, first paragraph (written description), is believed to be obviated by amendment.

In the outstanding Office Action, the Examiner alleges that the claims lack sufficient written description. Specifically, the Examiner alleges that Claims 1-5 and 15 are “broad and generic, with respect to all possible promoters... the possible structure variations are numerous since any structure which is recognized by both SigA and SigE formed by modifying a promoter recognized by SigA is encompassed. Dependent claims 2-5 do not remedy the written description because they specify that a consensus sequence recognized by SigE is present at some location in a SigA recognized promoter, or that the SigA recognized promoter is one of SEQ ID NO: 1, or SEQ ID NO: 2, or nucleotides having 80 or 90% homology thereto.”

Applicants make no statement with respect to the propriety of this ground of rejection and in no way acquiesce to the same. Solely to expedite examination of this application, Applicants have amended the claims based on paragraph [0013], paragraphs [0017]-[0021], and the Examples to define the specific consensus sequence that is recognized by SigA and SigE that must be conserved within the claimed promoter sequence.

In view of these amendments, Applicants submit that the Examiner’s rejection is now moot.

Withdrawal of this ground of rejection is requested.

The objection to Claims 6-14 under 37 C.F.R. §1.75(c) as containing improper multiple dependencies is obviated by amendment. Applicants have amended the claims to remove multiple dependencies. Withdrawal of this ground of objection is requested.

Applicants submit that the present application is now in condition for allowance.

Early notification of such action is earnestly solicited.

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